

NORTH CAROLINA
DURHAM COUNTY

IN RE
INVESTIGATIVE ORDERS
AND SEARCH WARRANTS

FILED IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO: 20 R 38
2020 FEB 26 A 10:55
DURHAM CO., C.S.C.
) ADMINISTRATIVE ORDER
BY)
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The following procedure for the processing and secure custody of investigative orders and search warrants issued by judicial officials in Durham County is hereby adopted by the undersigned judges, after consultation with the District Attorney and the Clerk of Superior Court.

PROCESS FOR SEARCH WARRANTS THAT ARE NOT ORDERED SEALED

A judicial official issuing a search warrant pursuant to Article 11 of Chapter 5A of the General Statutes shall retain a copy of the warrant and the warrant application and shall, as soon as practicable, cause such document to be filed with the office of the Clerk of Superior Court. Unless the issuing judicial official directs otherwise, neither the warrant nor the warrant application shall be made available for the public inspection until the warrant is served and executed or is returned unserved or more than 48 hours has expired from the time of its issuance, whichever events occurs first. However, in order to preserve the integrity of a criminal investigation, a judicial official may order that such documents be sealed for a reasonable period of time to complete the investigation which should not exceed 90 days unless extreme circumstances require a longer period. A sealing order can only be entered upon written motion of the District Attorney.

**PROCESS FOR SEARCH WARRANTS THAT ARE ORDERED SEALED PURSUANT TO
COURT ORDER**

1. Search warrants are public records and will not be routinely sealed in the absence of compelling evidence that a temporary sealing is necessary and is required to preserve the integrity of the investigation. In considering a motion to temporarily seal the warrant, the judicial official should balance the interests of the public in disclosure against the interests of the law enforcement agency and the alleged victim in withholding information. The Court must also insure that any

person under investigation will not be denied a fair trial resulting from a release of this information.

2. Law enforcement officers seeking to seal a search warrant should notify the District Attorney's Office to obtain a Motion and proposed Order to Seal Search Warrant to be presented to the judge at the time the search warrant is sought. No order to seal should be signed in the absence of a written motion by the District Attorney.

If the judge determines that it is appropriate to temporarily seal the search warrant, the judge shall execute the order. The order shall state the length of time for which the search warrant is to be temporarily sealed. That period should not exceed 90 days in the absence of exceptional circumstances set forth in the written motion. No warrant shall be indefinitely sealed.

3. The Court's copy of the search warrant and application for the search warrant should be placed in an envelope with the caption appearing on the outside of the envelope. The envelope and order sealing the search warrant shall be delivered to the Clerk.

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4. The Clerk shall establish a log, listing by caption search warrants that have been sealed, the date the order to seal was signed, the date the order expires, and the name of the assistant district attorney assigned to the case. The log will be available for public inspection. The Clerk shall also maintain a copy of the order sealing the search warrant on file.

5. The envelope containing the Court's copy of the search warrant and the sealing order shall be safeguarded by the Clerk and held in a confidential room.

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6. Unless the order sealing the search warrant is extended, the Clerk shall notify the District Attorney's office on the date the order expires and return the search warrant to the Criminal Division to be filed with non-sealed search warrants.

7. Once the law enforcement officer has served the search warrant or after 48 hours have passed without execution of the search warrant, the search warrant shall be returned without unnecessary delay to the Clerk's office with a copy of the order sealing the warrant. The law enforcement officer shall also provide a written inventory of items seized. If the order sealing the search warrant remains in effect, the search warrant and the written inventory shall be filed in the confidential file room. If the order has expired, it will be filed with the other warrants.

PROCESS FOR EXTENDING SEALED ORDER

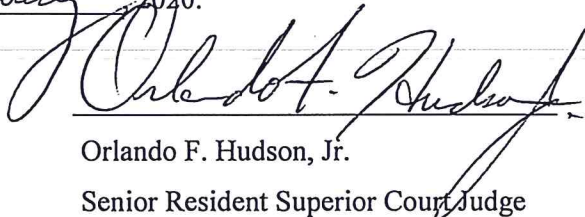
1. If the District Attorney determines that exceptional circumstances exist which require the temporary period sealing a search warrant to be extended, the District Attorney may file a written motion to extend the period for sealing a search warrant for an additional reasonable period, not to exceed an additional 90 days.

2. The District Attorney's motion to extend must be filed with the Court prior to the expiration of the original order to seal the search warrant.
3. This motion by the District Attorney to extend the sealing period must be served on an attorney designated by local news organizations who shall be permitted to file a response to the motion. The motion to extend may only be heard by the Senior Resident Superior Court Judge or his designee.
4. In reviewing this motion and any response, the Court shall again balance the interests of the public in disclosure against the interests of the law enforcement agency and the person under investigation.

PROCESS FOR INVESTIGATIVE ORDERS

Unless specifically required by statute to be filed with the Clerk of Superior Court, all investigative orders signed by judicial officials to obtain medical records, telephone records, business records, and other information during the course of a criminal investigation shall be retained by the investigating agency and shall be included as part of the agency's Investigative Report to be provided to the District Attorney when a suspect is charged with a criminal offense. Public access to these records may be permitted only by court order upon a showing of good cause.

So ordered this, the 26th day of February, 2020.


Orlando F. Hudson, Jr.
Senior Resident Superior Court Judge


Pat Evans
Chief District Court Judge